

**DISTRICT COURT OF THE VIRGIN ISLANDS**

**DIVISION OF ST. CROIX**

**JOHN FOY,**

**Plaintiff,**

**2007-CV-0092**

**v.**

**AMBIENT TECHNOLOGIES, INC., IDE-  
SWRO TECHNOLOGIES, INC., MICHAEL  
P. TRAMER, and V.I. WATER AND POWER  
AUTHORITY,**

**Defendants.**

**TO: Lee J. Rohn, Esq.  
Raegan M. King, Esq.**

**ORDER DENYING PLAINTIFF'S MOTION FOR EXTENSION OF TIME**

THIS MATTER came before the Court upon Plaintiff's Motion For Extension of Time to Serve Defendant Nunc Pro Tunc (Docket No. 13). Defendants IDE Technologies, Inc., Michael P. Tramer, and V.I. Water and Power Authority filed an opposition to said motion. The time for filing a reply has expired.

Plaintiff seeks an extension of time to effectuate service upon Defendant Ambient Technologies, Inc. Fed. R. Civ. P. 4(m) requires a defendant to be served within 120 days after the filing of the complaint. The terms of the rule are clear:

*Foy v. Ambient Technologies, Inc.*

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If a defendant is not served within 120 days after the complaint is filed, the court--on motion or on its own after notice to the plaintiff--must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. 4(m).

As amply demonstrated by said Defendants, Plaintiff failed even to attempt to serve the correct corporation until after the 120-day deadline and then waited in excess of another four (4) months to request an extension of time. Despite Plaintiff's lengthy and detailed explanation for his failure to serve Defendant Ambient Technologies within the specified time limit, Plaintiff has failed to show good cause for such failure, and, instead, demonstrates his own failure to exercise diligence.

WHEREFORE, it is now hereby **ORDERED**:

1. Plaintiff's Motion For Extension of Time to Serve Defendant Nunc Pro Tunc (Docket No. 13) is **DENIED**.
2. Defendant Ambient Technologies, Inc., is **DISMISSED WITHOUT PREJUDICE**.

ENTER:

Dated: June 13, 2008

\_\_\_\_\_/s/\_\_\_\_\_  
GEORGE W. CANNON, JR.  
U.S. MAGISTRATE JUDGE